IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

TRC.No. 351 of 2002

TA.549/2000 OF SALES TAX APPELLATE TRIBUNAL, ADDL.BENCH, KOTTAYAM, DATED 30.3.2001. .....

PETITIONER: RESPONDENT/REVENUE

STATE OF KERALA, REPRESENTED BY DEPUTY COMMISSIONER (LAW) COMMERCIAL TAXES, ERNAKULAM.

BY SPECIAL GOVERNMENT PLEADER FOR TAXES
SRI.V.V.ASHOKAN

RESPONDENT: APPELLANT/ASSESSEE

M/S. MEKHALA TRADERS, POWER HOUSE ROAD, TRIVANDRUM.

BY ADV. SRI.K.B.MUHAMED KUTTY

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

T.R.C. NO. 351 OF 2002

Dated this the 19th June, 2007

O R D E R

H.L.DATTU, C.J.

The State is before us in this Tax Revision Case. It calls in question the correctness or otherwise of the orders passed by the Sales Tax Appellate Tribunal in T.A.No.549 of 2000, dated 30th March 2001, for the assessment year 1994-95. The Revenue has raised the following questions of law for our consideration and decision. They are as under:

> "a) Were not the Tribunal and the First Appellate Authority in error in holding that it will be fair and reasonable to restrict the addition to 25% of the actual suppression towards probable other suppressions when the quantum of suppression unearthed warrants a higher estimate?
>
> b) In the facts and circumstances of the case, Were not the Tribunal and the First Appellate Authority in error in not considering that a pattern of suppression was being carried out by the assessee including parallel accounts which would warrant a higher addition and that the assessing officer has taken the quantum lightly and fixed the addition at 100% which is relatively low and has no nexus to the offence carried out?"

2. Having gone through the questions of law framed, we are of

the opinion that the said questions are in the nature of pure questions of fact.

3. This Court, in exercise of its powers under Section 41 of the Kerala General Sales Tax Act, can entertain a revision petition only if substantial question of law is involved in the revision petition or the Tribunal has erroneously decided the question of law.

4. As we have already stated, the questions of law raised by the Revenue are only in the nature of pure questions of fact and, therefore, the revision petition cannot be entertained by us. Accordingly, the revision requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/